

APPEAL NO. 021212
FILED JULY 1, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 17, 2002. The hearing officer resolved the disputed issues by deciding that the respondent's (claimant) compensable injury includes right carpal tunnel syndrome and right radial tunnel syndrome, and that the claimant has had disability from September 27, 2001, through April 17, 2002. The appellant (carrier) appealed the disability determination. No response was received from the claimant. There is no appeal regarding the issue on the extent of the injury.

DECISION

The hearing officer's decision and order are affirmed.

Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. The claimant had the burden to prove that he has had disability as defined by Section 401.011(16). The claimant sustained a compensable injury on _____. His treating doctor placed him on light-duty work and has kept him on that work status. There is evidence that the claimant was laid off on May 7, 2001, and that the employer did not have light-duty work available for him to do after that date. There is no dispute that the claimant had disability for the period of May 7, 2001, through September 26, 2001. The disputed period of disability is from September 27, 2001, through the date of the CCH. On September 27, 2001, a doctor who examined the claimant at the carrier's request wrote that there was no evidence that the claimant could not return to gainful employment. However, after that date the claimant's treating doctor continued to report that the claimant could only perform light-duty work, with restricted use of his injured right hand. A referral doctor reported in December 2001, that the claimant could perform light-duty work, with restrictions on the use of his hand. An investigative report was also in evidence. The claimant said that he applied for and received unemployment benefits.

There was conflicting evidence presented on the disability issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The claimant's receipt of unemployment benefits would not necessarily preclude a finding of disability. See Texas Workers' Compensation Commission 92198, decided July 3, 1992. We conclude that the hearing officer's decision that the claimant had disability from September 27, 2001, through April 17, 2002, is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.**

Robert W. Potts
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Thomas A. Knapp
Appeals Judge